

SUBSTITUTE FOR  
SENATE BILL NO. 263

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
(MCL 760.1 to 777.69) by adding section 27b to chapter VIII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER VIII

SEC. 27B. (1) EVIDENCE OF A STATEMENT BY A DECLARANT IS  
ADMISSIBLE IF ALL OF THE FOLLOWING APPLY:

(A) THE STATEMENT PURPORTS TO NARRATE, DESCRIBE, OR EXPLAIN  
THE INFLECTION OR THREAT OF PHYSICAL INJURY UPON THE DECLARANT.

(B) THE ACTION IN WHICH THE EVIDENCE IS OFFERED UNDER THIS  
SECTION IS AN OFFENSE INVOLVING DOMESTIC VIOLENCE.

(C) THE STATEMENT WAS MADE AT OR NEAR THE TIME OF THE  
INFLECTION OR THREAT OF PHYSICAL INJURY. EVIDENCE OF A STATEMENT  
MADE MORE THAN 5 YEARS BEFORE THE FILING OF THE CURRENT ACTION OR

1 PROCEEDING IS INADMISSIBLE UNDER THIS SECTION.

2 (D) THE STATEMENT WAS MADE UNDER CIRCUMSTANCES THAT WOULD  
3 INDICATE THE STATEMENT'S TRUSTWORTHINESS.

4 (E) THE STATEMENT WAS MADE TO A LAW ENFORCEMENT OFFICER, OR TO  
5 A FIREFIGHTER, A PARAMEDIC, OR AN EMERGENCY MEDICAL TECHNICIAN WHO  
6 ASSISTED THE DECLARANT AT OR NEAR THE TIME OF THE INFLECTION OF  
7 PHYSICAL INJURY OR THREAT OF PHYSICAL INJURY.

8 (2) FOR THE PURPOSE OF SUBSECTION (1) (D), CIRCUMSTANCES  
9 RELEVANT TO THE ISSUE OF TRUSTWORTHINESS INCLUDE, BUT ARE NOT  
10 LIMITED TO, ALL OF THE FOLLOWING:

11 (A) WHETHER THE STATEMENT WAS MADE IN CONTEMPLATION OF PENDING  
12 OR ANTICIPATED LITIGATION IN WHICH THE DECLARANT WAS INTERESTED.

13 (B) WHETHER THE DECLARANT HAS A BIAS OR MOTIVE FOR FABRICATING  
14 THE STATEMENT, AND THE EXTENT OF ANY BIAS OR MOTIVE.

15 (C) WHETHER THE STATEMENT IS CORROBORATED BY EVIDENCE OTHER  
16 THAN STATEMENTS THAT ARE ADMISSIBLE ONLY UNDER THIS SECTION.

17 (3) IF THE PROSECUTING ATTORNEY INTENDS TO OFFER EVIDENCE  
18 UNDER THIS SECTION, THE PROSECUTING ATTORNEY SHALL DISCLOSE THE  
19 EVIDENCE, INCLUDING THE STATEMENTS OF WITNESSES OR A SUMMARY OF THE  
20 SUBSTANCE OF ANY TESTIMONY THAT IS EXPECTED TO BE OFFERED, TO THE  
21 DEFENDANT NOT LESS THAN 15 DAYS BEFORE THE SCHEDULED DATE OF TRIAL  
22 OR AT A LATER TIME AS ALLOWED BY THE COURT FOR GOOD CAUSE SHOWN.

23 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ABROGATE ANY  
24 PRIVILEGE CONFERRED BY LAW.

25 (5) AS USED IN THIS SECTION:

26 (A) "DECLARANT" MEANS A PERSON WHO MAKES A STATEMENT.

27 (B) "DOMESTIC VIOLENCE" OR "OFFENSE INVOLVING DOMESTIC

VIOLENCE" MEANS AN OCCURRENCE OF 1 OR MORE OF THE FOLLOWING ACTS BY A PERSON THAT IS NOT AN ACT OF SELF-DEFENSE:

(i) CAUSING OR ATTEMPTING TO CAUSE PHYSICAL OR MENTAL HARM TO A FAMILY OR HOUSEHOLD MEMBER.

(ii) PLACING A FAMILY OR HOUSEHOLD MEMBER IN FEAR OF PHYSICAL OR MENTAL HARM.

(iii) CAUSING OR ATTEMPTING TO CAUSE A FAMILY OR HOUSEHOLD MEMBER TO ENGAGE IN INVOLUNTARY SEXUAL ACTIVITY BY FORCE, THREAT OF FORCE, OR DURESS.

(iv) ENGAGING IN ACTIVITY TOWARD A FAMILY OR HOUSEHOLD MEMBER THAT WOULD CAUSE A REASONABLE PERSON TO FEEL TERRORIZED, FRIGHTENED, INTIMIDATED, THREATENED, HARASSED, OR MOLESTED.

(C) "FAMILY OR HOUSEHOLD MEMBER" MEANS ANY OF THE FOLLOWING:

(i) A SPOUSE OR FORMER SPOUSE.

(ii) AN INDIVIDUAL WITH WHOM THE PERSON RESIDES OR HAS RESIDED.

(iii) AN INDIVIDUAL WITH WHOM THE PERSON HAS OR HAS HAD A CHILD IN COMMON.

(iv) AN INDIVIDUAL WITH WHOM THE PERSON HAS OR HAS HAD A DATING RELATIONSHIP. AS USED IN THIS SUBPARAGRAPH, "DATING RELATIONSHIP" MEANS FREQUENT, INTIMATE ASSOCIATIONS PRIMARILY CHARACTERIZED BY THE EXPECTATION OF AFFECTIONAL INVOLVEMENT. THIS TERM DOES NOT INCLUDE A CASUAL RELATIONSHIP OR AN ORDINARY FRATERNIZATION BETWEEN 2 INDIVIDUALS IN A BUSINESS OR SOCIAL CONTEXT.